

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-6220 of 2016

Date of Decision: November 16, 2018

Bikramjit Singh

.....Petitioner

Versus

Kiranjit Kaur and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Gagandeep Sirpikhi, Advocate
for the petitioner.

Mr. R.K. Arya, Advocate
for the respondents.

FATEH DEEP SINGH, J.

Kiranjit Kaur wife and Sukhnaseeb Kaur a minor daughter of present petitioner Bikramjit Singh instituted an application under Section 125 Cr.P.C. seeking maintenance and after adopting due process of law, the Court below vide order dated 07.03.2013 had awarded 1/3rd per month of the salary of the petitioner-husband from the date of the filing of the petition, which order was challenged by filing a revision before the Additional Sessions Judge, Gurdaspur, who after hearing the counsel for the parties has reached the conclusion that the order passed by the learned JMIC is non-speaking one and remanded back the same to the Court of learned JMIC, who vide order dated 31.03.2014 by passing a speaking order granted interim maintenance to the tune of Rs.5,800/- per month to the wife and Rs.1,000/- to the minor daughter. The husband failed to pay the

maintenance awarded by the Court of learned JMIC Gurdaspur and, thus, forcing the respondent-wife and daughter to file execution for the recovery of the interim maintenance. In spite of having been afforded opportunity, the husband has failed to comply with the order leading to the passing the impugned orders dated 25.1.2016 Annexure P-7, whereby, the conditional warrants of arrest were issued against the husband, the same is the subject matter of challenge by the applicant/husband before this court by invoking the inherent powers of this Court under Section 482 Cr.P.C.

Upon appreciating the arguments advanced by Shri Gagandeep Sirpikhi, Advocate for the petitioner and Sh. R.K. Arya for the respondents. It could not be displaced by the counsel for the respondent that the orders of interim maintenance till date have not been altered or disturbed by any superior Court and, thus, by all means deemed to be as on date attained finality. It is not the case of the petitioner-husband that he has paid part of this allowance or is willing to pay some of it but has rather shown his utter obstinacy to obey the orders of the Court. The conduct of the husband certainly smacks of arrogance to the law of the land. The Court has afforded ample opportunity consequent upon of passing of orders dated 07.03.2013 and after he failed to pay the same and had rather moved an application for calling back the warrants in the year 2015 is itself suggestive of what is at the back of the mind of the petitioner. It is the bounden duty of the husband especially when he is earning handsomely to maintain and upkeep the dependents be it wife or minor

daughter and the very conduct of the husband rather needs to be deprecated and his feudalistic approach in the matter needs to be discouraged.

The provisions of Section 128 Cr.P.C. provides for enforcement of order of maintenance and therefore it was well within the powers of the learned Court below to have issued conditional warrants. The counsel for the petitioner could not convince this Court how the intervention by this Court by exercising its inherent powers under Section 482 Cr.P.C. is necessitated and rather to the mind of the Court it is purely a gross misuse of process of law and there is no illegality and perversity in the findings of the Court below. The present petition is nothing but a mischievous device to delay and scuttle the legitimate right of the dependents and, therefore, needs to be dismissed with special costs of Rs.20,000/- which shall go to the claimants in equal share. Before parting, it is desirable that necessary directions be issued to the Court below to ensure that the maintenance orders are given effect to expeditiously by using the process of law as deemed necessary. Copy of this order be sent to the Court below.

Disposed off.

November 16, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No